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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,043	10/12/2001	Aswin Chandramouleeswaran	10017249-1	3751

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HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
Fort Collins, CO 80527-2400

EXAMINER
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TRUJILLO, JAMES K

ART UNIT	PAPER NUMBER
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2116

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/977,043

Applicant(s)

CHANDRAMOULEESWARAN ET AL.

Examiner

James K. Trujillo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-8,10-14 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 2,3,9,15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 05062005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. It is hereby acknowledged that the following papers have been received and placed of record in the file: Remarks and IDS both dated 5/6/05.
2. Claims 1-20 are presented for examination.
3. The rejections are respectfully maintained and reproduced infra for applicant's convenience.

#### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1, 4-8, 10-14, and 17-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Aguilar et al., U.S. Patent 6,763,457.

6. Regarding claim 1, Aguilar teaches a method for operating a computing apparatus comprising:

- a. specifying proposed changes to a plurality of tunable parameters (changing a parameter to a default because required parameter is missing, col. 5 lines 30-35) of tunable kernel modules (each parameter is interpreted to be a module);
- b. determining whether application of the changes would violate a set of constraints (default indicator is false, col. 5 lines 39-43); and
- c. effectuating either none (terminating the boot sequence if a default parameter is missing, col. 5 lines 39-43) or all (inherent as would be the case if no default parameters are missing) of the changes depending upon whether the changes were determined to violate any (missing a parameter) or none of the constraints, respectively.

7. Regarding claim 4, Aguilar taught the method according to claim 1, as described above. Aguilar further teaches wherein effectuating all of the changes comprises changing the values of the plurality of tunable parameters in predefined order (boot parameters may be ordered, col. 6 lines 34-36). In Aguilar, a user may edit the tunable parameters (boot parameters) in table in order to have a desired order.

8. Regarding claim 5, Aguilar taught the method according to claim 1, as described above. Aguilar further teaches wherein effectuating all of the changes comprises either rebooting the operating system before effecting said changes or effecting said change prior (by retrieving a boot parameter that corresponds to a default parameter) to rebooting the operating system kernel (col. 5 lines 31-51), conditioned upon whether at one of the tunable parameters is a static tunable parameter (default value).

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9. Regarding claim 6, Aguilar taught the method according to claim 1, as described above. Aguilar further teaches comprising specifying a time at which said proposed changes are to be effectuated, and effectuating said proposed changes at the specified times (the specified time in Aguilar is immediately upon determining a default value may be used, col. 5 lines 31-40).

10. Regarding claim 7, Aguilar taught the method according to claim 1, as described above. Aguilar further teaches further comprising specifying an order in which said proposed new values are to take effect and effectuating the changes in the specified order (boot parameters may be ordered, col. 6 lines 34-36). In Aguilar, a user may edit the tunable parameters (boot parameters) in table in order to have a desired order.

11. Regarding claims 8, 10-14 and 17-20, Aguilar taught the claimed method therefore he also teaches the claimed computing apparatus and the claimed media having machine readable instructions.

#### ***Allowable Subject Matter***

12. Claims 2-3, 9, and 15-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

13. All rejections of claim limitations as filed prior to Amendment dated 5/6/2005 not argued in their entirety or substantively in the response to the prior Office action have been conceded by Applicant and the rejections are maintained from henceforth.

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14. Applicant's arguments filed 6 May 2005 have been fully considered but they are not persuasive.

15. Applicants argue in substance that Aguilar fails to disclose or suggest kernel parameters. Specifically, applicants argue "a boot parameter is different than a kernel parameter, i.e., a parameter manipulated, used and/or passed along by the kernel". However, this feature is not recited in the rejected claim. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., kernel parameter manipulated, used, and/or passed along by the kernel) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, Aguilar teaches that the tunable parameters are parameters are used to locate the path and filename of the operating system kernel to be loaded (col. 7, lines 26-31). Thus, the parameters provide the location of the kernel and the parameters are changeable. It is in this way that the parameters of Aguilar are interpreted to be "tunable parameters of tunable kernel modules".

### ***Conclusion***

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James K. Trujillo whose telephone number is (571) 272-3677.

The examiner can normally be reached on M-F (7:30 am - 5:00 pm) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (571) 272-3670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Trujillo  
July 6, 2005

  
**LYNNE H. BROWNE**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2100**